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Attorneys for Plaintiff  
and Third-Party Defendants,  
the SS Entities

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF HAWAII

SPORTS SHINKO CO., LTD.,	)	CIVIL NO. CV 04-00124
a Japanese corporation,	)	ACK/BMK
	)	
Plaintiff,	)	CONSOLIDATED CASES
	)	
vs.	)	<b>PLAINTIFF'S AND THIRD-PARTY</b>
	)	<b>DEFENDANTS SPORTS SHINKO CO.,</b>
	)	<b>LTD., SPORTS SHINKO (HAWAII)</b>
	)	<b>CO., LTD., SPORTS SHINKO</b>
QK HOTEL, LLC, a Hawai'i	)	<b>(MILILANI) CO., LTD., SPORTS</b>
limited liability company,	)	<b>SHINKO (KAUAI) CO., LTD.,</b>
et al.,	)	<b>SPORTS SHINKO (PUKALANI) CO.,</b>
	)	<b>LTD., SPORTS SHINKO RESORT</b>
Defendants,	)	<b>HOTEL CORPORATION, SPORTS</b>
	)	<b>SHINKO (WAIKIKI) CORPORATION,</b>
and	)	<b>AND OCEAN RESORT HOTEL</b>
	)	<b>CORPORATION'S CONCISE</b>
FRANKLIN K. MUKAI,	)	<b>STATEMENT OF FACTS IN SUPPORT</b>
	)	<b>OF OPPOSITION TO KG</b>
	)	<b>DEFENDANTS' MOTION FOR SUMMARY</b>
Third-Party	)	<b>JUDGMENT IN CV NO. 04-00128</b>
Plaintiff,	)	<b>ACK-BMK; DECLARATION OF</b>
	)	<b>GLENN T. MELCHINGER;</b>
vs.	)	<b>DECLARATION OF</b>
	)	<b>STEVEN C. SILVER; LIST OF</b>
	)	<b>TRANSLATED DOCUMENTS;</b>

SPORTS SHINKO (USA) CO.; LTD., )  
a Delaware corporation, et al., )  
) **DECLARATION OF TSUGIO FUKUDA;**  
) **EX. "T-1"; DECLARATION OF**  
) **DAVID KLAUSNER; EXHIBITS "K-A"**  
) **- "K-C"; EXHIBITS "1" - "36"**  
) **CERTIFICATE OF SERVICE**

Third-Party  
Defendants.

Hearing Date: March 20, 2006  
Time: 9:30 a.m.  
Judge: Hon. Alan C. Kay

SPORTS SHINKO (USA) CO., LTD., )  
a Delaware corporation, )  
) **CIVIL NO. CV 04-00125**  
) **ACK/BMK**

Plaintiff,

vs.

PUKALANI GOLF CLUB, LLC, a  
Hawai'i limited liability  
company, et al.,

Defendants,

and

FRANKLIN K. MUKAI,

Third-Party  
Plaintiff,

vs.

SPORTS SHINKO CO., LTD.,  
a Japan corporation, et al.,

Third-Party  
Defendants.

SPORTS SHINKO (USA) CO., LTD, a )  
Delaware corporation, )  
) **CIVIL NO. CV 04-00126**  
) **ACK/BMK**

Plaintiff,

vs.

KIAHUNA GOLF CLUB, LLC,  
a Hawai'i limited liability  
company, et al.,

Defendants,

and

FRANKLIN K. MUKAI,

Third-Party  
Plaintiff,

vs.

SPORTS SHINKO CO., LTD.,  
a Japan corporation, et al.,

Third-Party  
Defendants.

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SPORTS SHINKO CO., LTD., a  
Japanese corporation,

Plaintiff,

vs.

OR HOTEL, LLC, a Hawai'i  
limited liability company,  
et al.,

Defendants,

and

FRANKLIN K. MUKAI,

Third-Party  
Plaintiff,

vs.

SPORTS SHINKO (USA) CO., LTD.,  
a Delaware corporation, et al.,

CIVIL NO. CV 04-00127  
ACK/BMK

Third-Party	)	
Defendants.	)	
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SPORTS SHINKO (USA) CO., LTD.,	)	CIVIL NO. CV 04-00128
a Delaware corporation,	)	ACK/BMK
Plaintiff,	)	
vs.	)	
MILILANI GOLF CLUB, LLC,	)	
a Hawai'i limited liability	)	
company, et al.,	)	
Defendants,	)	
and	)	
FRANKLIN K. MUKAI,	)	
Third-Party	)	
Plaintiff,	)	
vs.	)	
SPORTS SHINKO CO., LTD.,	)	
a Japan corporation, et al.,	)	
Third-Party	)	
Defendants.	)	

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**PLAINTIFFS' AND THIRD-PARTY DEFENDANTS' SPORTS SHINKO CO.,  
LTD., SPORTS SHINKO (HAWAII) CO., LTD., SPORTS SHINKO  
(MILILANI) CO., LTD., SPORTS SHINKO (KAUAI) CO., LTD.,  
SPORTS SHINKO (PUKALANI) CO., LTD., SPORTS SHINKO RESORT  
HOTEL CORPORATION,  
SPORTS SHINKO (WAIKIKI) CORPORATION, AND  
OCEAN RESORT HOTEL CORPORATION'S CONCISE STATEMENT  
OF FACTS IN SUPPORT OF OPPOSITION TO KG DEFENDANTS'  
MOTION FOR SUMMARY JUDGMENT IN CV NO. 04-00128 ACK-BMK**

Pursuant to Rule 56.1 of the Rules of the United  
States District Court for the District of Hawai'i ("Local

Rules"), Plaintiff and Third-Party Defendants SPORTS SHINKO CO., LTD., SPORTS SHINKO (HAWAII) CO., LTD., SPORTS SHINKO (MILILANI) CO., SPORTS SHINKO (KAUAI) CO., LTD., SPORTS SHINKO (PUKALANI) CO., LTD., SPORTS SHINKO RESORT HOTEL CORPORATION, SPORTS SHINKO (WAIKIKI) CORPORATION, and OCEAN RESORT HOTEL CORPORATION (collectively the "SS Entities") hereby submit their concise statement of facts in opposition to KG Defendants' Motion for Summary Judgment in CV No. 04-00128 ACK-BMK, filed January 13, 2006:

<b>KG Defendants' Concise Statement</b>	<b>Sports Shinko ("SS") Entities' Position</b>
<p>For the purposes of this motion, the allegations in the complaints in the five consolidated lawsuits are true.</p>	<p>Admit that some case law provides that statements in a complaint are admissions, and no more. This statement of Defendants is misleading, incomplete, and is <b>not</b> a statement of fact. It is a presumption of law for the purposes of the Motion, and is <i>unsupported by any case law citation</i> in the KG Defendants' Motion. SS denies all negative inferences based on this statement or on the allegations in any Complaint or Amended Complaint in these consolidated cases.</p>

At all material times, Toshio Kinoshita exerted operational control over all of the SS entities, including (among others) plaintiff Sports Shinko (USA) Co., Ltd. ("SS-USA") and Sports Shinko (Mililani) Co., Ltd. ("SS Mililani") [ <i>through his title of President of the SS entities and direct or indirect shareholder</i> ].	Admit Toshio Kinoshita had <i>authority</i> over the SS Companies, but deny that Defendants have proved Toshio <i>actually</i> "exert[ed] operational control" sufficient for the purposes of this Motion. See discussion at Memorandum in Opposition at p. 21, n.5. Defendants fail to distinguish "authority" from exercise of control.
Toshio Kinoshita was President of [the Sports Shinko entities].	Admit, but incomplete and misleading; the SS Companies deny any adverse inferences.
Toshio Kinoshita owned a majority of the stock of SS-Japan [and other statements regarding ownership].	Admit, but incomplete and misleading; the SS Companies deny any adverse inferences.

FACTS	EVIDENTIARY SUPPORT
There is evidence of Toshio's and the former managements' (including Mukai's) efforts to "hinder, delay, and defraud" SS-Japan's lenders.	Fukuda Decl. at ¶¶ 21-23; see Exs. "1", "5", "6", "8" & "17"; see also related factual issues listed at p. 19 Motion In Opposition to KG Defendants Motion for Summary Judgment and chronology at pp. 14-15.

FACTS	EVIDENTIARY SUPPORT
Toshio Kinoshita, Satoshi Kinoshita and Franklin Mukai (among others) ignored higher cash offers for the SS Hawaii properties brought by Colliers Monroe Friedlander, and transferred the SS Hawaii subsidiaries' property to Defendants for substantially less than their fair value.	Exs. "9" - "15" & "26".
The Resolution and Collection Corporation ("RCC") told Sports Shinko Co., Ltd. of its intent to place SS-Japan into reorganization proceedings in January, 2002, and Toshio held a directors' meeting regarding this prior to the RCC's filing of reorganization proceedings on January 28, 2002.	Fukuda Decl. at ¶ 23.
SS-Japan negotiated to repay its debt to its Japan lenders by selling its Hawaii and other overseas assets.	Ex. "1"
The speed and very nature of the transfers to the KG Defendants are suspect on their face, especially on the eve of bankruptcy and a lawsuit by David Resnick, with seller financing and no cash down, despite higher cash offers.	Exs. "9" - "15", "25", "26", "27", "30", "32", "33"; Fukuda Decl. at ¶ 23.
SS's Pukalani Sewage Treatment Plant (the "STP") on Maui was not a liability; one purchaser offered \$11.5 million cash for Sports Shinko (Pukalani) Co., Ltd.'s Maui property and the STP. Another purchaser offered \$7.5 million cash for the same.	Exs. "11", "12", "36"; Melchinger Decl. at ¶. 41.

FACTS	EVIDENTIARY SUPPORT
The former SS management, including Toshio, engaged in a scheme to hinder, delay or defraud creditors involving placing management agreements on the SS Hawaii subsidiaries' properties and with payments of "termination fees" to Resort Management Services (Hawaii), Inc., a company owned and operated by a former Sports Shinko officer and Toshio's former personal secretary, Yasuo Nishida.	Exs. "2", "3", "4", "5", "6", "7", & "8". Defs'. Exs. "K" - "M".
The Sports Shinko's ("SS") intercompany loans were made for business purposes, were structured as they were because of Japan law and Japanese bank lending practices, and gave Japan banks rights against the SS Hawaii subsidiaries' properties.	Fukuda Decl. at ¶¶ 11-20 & Ex. "T-1" <i>UFJ Bank Limited v. Ieda</i> , 109 Hawai'i 137, 139-140 & n.6, 2005 Haw. LEXIS 608 at *5, *6 & n.6 (Dec. 8, 2005).

DATED: Honolulu, Hawai'i, February 17, 2006.

/s/ Glenn Melchinger  
PAUL ALSTON  
GLENN T. MELCHINGER

Attorneys for Plaintiffs  
and Third-Party  
Defendants,  
the SS Entities



**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this date I caused a true and correct copy of the foregoing to be served on the following persons by facsimile, hand-delivery or U.S. mail, postage prepaid (as indicated below) to their respective addresses:

	<b>HAND- DELIVERED</b>	<b>ECF</b>	<b>MAILED</b>
WILLIAM A. BORDNER, ESQ. Suite 3100, Mauka Tower 737 Bishop Street Honolulu, HI 96813	( )	( X )	( )

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FRANKLIN K. MUKAI

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Attorneys for Defendants  
KIAHUNA GOLF CLUB, LLC; KG  
KAUAI DEVELOPMENT, LLC;  
PUKALANI GOLF  
CLUB, LLC; KG MAUI  
DEVELOPMENT, LLC; MILILANI  
GOLF CLUB, LLC; QK HOTEL,  
LLC; OR HOTEL, LLC; AND  
KG HOLDINGS, LLC

DATED: Honolulu, Hawai'i, February 17, 2006.

/S/ Glenn Melchinger

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and Third-Party  
Defendants,  
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